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इस भाग में भिन्न पृष्ठ संख्या की जाती है जिससे कि यह अलग संकलन को रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-Section (ii)

(रक्षासंस्थान को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than the  
Ministry of Defence)

वित्त विभाग

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 24 मार्च, 1992

का.सा. 1008.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ख की उप-धारा (1) तथा (2) के उपखण्ड तमिलनाडु मरकेन्टाइल बैंक लि., टूटीकोरिन पर 18 मार्च, 1992 से 17 जून, 1992 तक तीन महीने की अवधि के बास्ते बैंक के नियमित पूर्णकालिक अध्यक्ष की नियुक्ति होने तक, इनमें से जो भी पहले हो, लागू नहीं होंगे।

[संख्या 15/5/89-बी.ओ. III(i)]

के. के. मंगल, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 24th March, 1992

S.O. 1008.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve

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(1939)

Bank of India, hereby declares that the provisions of sub-sections (1) and (2) of section 10-B of the said Act shall not apply to the Tamilnadu Mercantile Bank Limited, Tuticorin for a period of three months from 18th March, 1992 to 17th June, 1992 or till the appointment of a regular whole-time chairman for that bank, whichever is earlier.

[No. 15/5/89-B.O. III (i)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 24 मार्च, 1992

का.सा. 1008.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ख की उप-धारा (1) के उपखण्ड तमिलनाडु मरकेन्टाइल बैंक लि., टूटीकोरिन पर 18 मार्च, 1992 से 17 जून, 1992 तक अवधि बैंक के नियमित अध्यक्ष की नियुक्ति होने तक, इनमें से जो भी पहले हो, उस सीमा तक लागू नहीं होंगे जहां तक बैंक को 4 महीने से अधिक के बास्ते अध्यक्ष एवं मुख्य कार्यपालक अधिकारी का कार्य करने के लिए किसी व्यक्ति की नियुक्ति करने की छुट प्राप्त है।

[संख्या 15/5/89-बी.ओ. III(ii)]

के. के. मंगल, अवर सचिव

New Delhi, the 24th March, 1992

S.O. 1009.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (9) of section 10-B of the said Act shall not, to the extent they preclude the bank from appointing a person to carry out the duties of the Chairman and Chief Executive Officer beyond a period exceeding four months, apply to the Tamilnad Mercantile Bank Limited Tuticorin from 18th March, 1992 to 17th June, 1992 or till the appointment of a regular Chairman for that Bank, whichever is earlier.

[No. 15/3/89-B.O. III (ii)]  
K. K. MANGAL, Under Secy.

नई दिल्ली, 24 मार्च, 1992

क्र.आ. 1010.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिशों पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ब की उपधारा (1) एवं (2) के उपबंध, मांगली बैंक लिमिटेड सांगली पर 1 मार्च, 1992 से 30 अप्रैल, 1992 की दो माह की अवधि के लिए या तब अध्यक्ष एवं मुख्य कार्यपालक अधिकारी के/अध्यापक प्रवर्तन करने तक इन्में से जो भी पहले हो, लागू नहीं होंगे।

[संख्या 15/3/91-बी. ओ. III (ii)]  
के. के. मंगल, अधर सचिव

New Delhi, the 24th March, 1992

S.O. 1010.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendations of the Reserve Bank of India, hereby declares that the provisions of sub-sections (1) and (2) of section 10-B of the said Act shall not apply to the Sangli Bank Limited, Sangli for a period of two months from 1st March, 1992 to 30th April, 1992 or till the new Chairman and Chief Executive Officer takes charge, whichever is earlier.

[No. 15/3/91-B.O. III(ii)]  
K. K. MANGAL, Under Secy.

नई दिल्ली, 24 मार्च, 1992

क्र.आ. 1011.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिशों पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ब की उपधारा (9) के उपबंध मांगली बैंक लिमिटेड सांगली पर पहली मार्च, 1992 से 30 अप्रैल 1992 तक अध्यक्ष बैंक के लिए अध्यक्ष की नियुक्ति होने तक इस में से जो भी पहले हो उस सीमा तक लागू नहीं होंगे। अतः तक बैंक की चार महिने में अधिक के वास्ते अध्यक्ष एवं मुख्य कार्यपालक अधिकारी का काम करने के लिए किसी व्यक्ति की नियुक्ति करने की छूट प्राप्त है।

[सं. 15/3/91-बी. ओ. III (ii)]  
के. के. मंगल, अधर सचिव

New Delhi, the 24th March, 1992

S.O. 1011.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendations of the Reserve Bank of India, hereby declares that the provisions of sub-section (9) of section 10-B of the said Act shall not, to the extent they preclude the bank from appointing a person to

carry out the duties of a Chairman beyond a period exceeding four months, apply to the Sangli Bank Limited, Sangli from 1st March, 1992 to 30th April, 1992 or till the new Chairman and Chief Executive Officer takes charge, whichever is earlier.

[No. 15/3/91-B.O. III(ii)]  
K. K. MANGAL, Under Secy.

विदेश मंत्रालय

(हज सेल)

नई दिल्ली, 25 मार्च, 1992

क्र. आ. 1012.—हज समिति नियम 1963 के नियम 6(1)(ड) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, भारत सरकार एतद्वारा यह घोषणा करती है कि बृहत्तर बम्बई नगर निगम के अध्यक्ष न रहने के फलस्वरूप श्री यूसुफ अब्दुल जकारिया द्वारा चयनित अध्यक्ष का स्थान और पद तथा श्री मोह. यूसुफ इब्राहिम जावेरी द्वारा चयनित उपाध्यक्ष का स्थान और पद रिक्त हो गए हैं; इन दोनों की अधिमूर्चमा संख्या एम(हज)/118-1/2/89 दिनांक 15-2-1989 द्वारा समिति में नामित किया गया था।

[संख्या एम(हज)/118-1/2/89]  
के. पी. फेबियन, मुख्य सचिव (हज)

MINISTRY OF EXTERNAL AFFAIRS

(Haj Cell)

New Delhi, the 25th March, 1992

S.O. 1012.—In exercise of powers conferred under Rule 6(1)(A) of Haj Committee Rules, 1963, Government of India hereby declare vacant the seat and office of Vice Chairman held by Shri Salim Abdul Zakaria and the seat and office of Vice Chairman held by Shri Mohd. Yusuf Ibrahim Zaveri, both nominated to the Committee vide Notification No. M(Haj) 118-1/2/89 dated 15-2-1989, as a result of their having ceased to be members of the Municipal Corporation of Greater Bombay.

[M(Haj)/118-1/2/89]  
K. P. FABIAN, Jr Secy. (Haj)

नई दिल्ली, 27 मार्च, 1992

क्र.आ. 1013.—राजनयिक कॉमली अधिकारी (अपथ एवम् एलक) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण से केन्द्रीय सरकार एतद्वारा भारत का शतावास बेरुत में सहायक श्री एम. सी. चौहान को 24 फरवरी, 1992 से कॉमली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/92]

वाई. पी. सिंह, अधर सचिव (पोलीटिकल)

New Delhi, the 27th March, 1992

S.O. 1013.—In pursuance of the Clause (ii) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri S. C. Chauhan, Assistant, in the Embassy of India, Beirut, to perform the duties of Consular Agent with effect from 24th February, 1992.

[No. T-4330/1/92]  
Y. P. SINGH, Under Secy. (PVS)

नई दिल्ली, 27 मार्च, 1992

विद्युत एवं अपारम्परिक ऊर्जा और नवीन मंत्रालय

(विद्युत विभाग)

नई दिल्ली, 25 मार्च, 1992

का. आ. 1014.—राजनयिक कौंसली अधिकारी (शपथ एवम् शुल्क) अधिनियम, 1948 (1948 का 41 वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का दूतावास, विएन्याण में सहायक श्री आर. के. शर्मा को 24 फरवरी, 1992 से कौंसली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी—4330/1/92]

वाई. पी. सिंह, अवसर सचिव (पी. बी. एस.)

New Delhi, the 27th March, 1992

S.O. 1014.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri R. K. Sharma, Assistant in the Embassy of India, Vientiane, to perform the duties of Consular Agent with effect from 24-2-92.

[No. T-4330/1/92]

Y. P. SINGH, Under Secy. (PVS)

नई दिल्ली, 27 मार्च, 1992

का. आ. 1015.—राजनयिक कौंसली अधिकारी (शपथ एवम् शुल्क) अधिनियम 1948 (1948 का 41 वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का दूतावास, नामपेन्ह में सहायक श्री ए. एस. शेनोय को 24 फरवरी, 1992 से कौंसली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी—4330/1/92]

वाई. पी. सिंह, अवसर सचिव (पी. बी. एस.)

New Delhi, the 27th March, 1992

S.O. 1015.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri A. S. Shenoy, Assistant, in the Embassy of India, Phnom Penh, to perform the duties of Consular Agent with effect from 24-2-92.

[No. T-4330/1/92]

Y. P. SINGH, Under Secy. (PVS)

का. आ. 1016.—सार्वजनिक परिसर (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई अनुसूची के कालम (1) में निर्दिष्ट राष्ट्रीय ताप विद्युत निगम लिमिटेड, भारत सरकार के उद्यम के अधिकारी, जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष हैं को कथित अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है जो कथित अनुसूची के कालम 2 में संगत प्रविष्टि में निर्दिष्ट "सार्वजनिक परिसरों" की श्रेणियों के बारे में कथित अधिनियम के द्वारा अथवा इसके अन्तर्गत सम्पदा अधिकारी को प्रदत्त की गई शक्तियों का उपयोग अपने अधिकार क्षेत्र की सीमाओं के अन्दर कर सकेगा और सम्पदा अधिकारी को सीपे गए कलव्यों का निर्वाह करेगा:—

अनुसूची

अधिकारी का नाम और पद	सार्वजनिक परिसरों की श्रेणी तथा स्थानीय सीमित क्षेत्र के बारे में क्षेत्राधिकार
1	2
श्री एस. पी. एस. खुशमा, सहायक कार्मिक अधिकारी, पी. आ. विद्युतनगर जिला—गार्जियाबाद (उ. प्र.)	राष्ट्रीय ताप विद्युत निगम की की दायरी व हापुड़ तहसील, जिला—गार्जियाबाद (उ. प्र.) के विद्युत नगर में स्थित राष्ट्रीय राजधानी विद्युत परियोजना के द्वारा लॉज अथवा किराए पर दी गई सभी जमीन, क्वार्टर्स, सम्पत्ति, जमीन-जयवाद, अन्य स्वामित्व वाले आवास रेन साइडिंग।

[सं. 8/6/91—य. एस. (सी. टी.)]

टी० पी० राधाकृष्णन, अवसर सचिव

## MINISTRY OF POWER &amp; NON-CONVENTIONAL ENERGY SOURCES

(Department of Power)

New Delhi, the 25th March, 1992

S.O. 1016.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (No. 40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the schedule below, being an officer of the National Thermal Power Corporation, Ltd., a Government of India Enterprise and equivalent to the rank of a Gazetted Officer of the Government of India to be Estate Officer for the purpose of the said Act, who shall exercise all the powers conferred upon him and perform

the duties imposed on the Estate Officer by or under the said Act within the limits of his Jurisdiction in respect of the categories of "Public Premises" specified in the corresponding entry in column (2) of the said schedule:

## SCHEDULE

Name and designation of Officer	Categories of Public Premises & local limits of Jurisdiction
1	2
1. Shri S.P. S. Khurana Assistant Personnel Officer, P.O. Vidyut Nagar, District Ghaziabad (Uttar Pradesh)	All lands, quarters, estates properties, railway siding and other accommodation owned, leased and rented by National Thermal Power Corporation's National Capital Power Project situated at Vidyut Nagar, Tehsils Dadri & Hapur, Distt. Ghaziabad (U.P.)

[No. 8/6/91-US (CT)]

T.P. RADHAKRISHNAN, Under Secy.

नई दिल्ली, 25 मार्च, 1992

अनुसूची

का. घा. 1017.—सार्वजनिक परिसर (अप्रामादित अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई अनुसूची के कालम (1) में निर्दिष्ट राष्ट्रीय ताप विद्युत निगम, एक सांविधिक प्राधिकरण के अधिकारी जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष है, को कथित अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है जो कि कथित अनुसूची के कालम—2 में संगत प्रविष्टि में निर्दिष्ट सार्वजनिक परिसरों की श्रेणियों के बारे में कथित अधिनियम के द्वारा अर्थात् इसके अन्तर्गत सम्पदा अधिकारी को प्रदत्त शक्तियों का अपने अधिकार क्षेत्र की सीमाओं के अन्दर उपयोग कर सकेगा और सम्पदा अधिकारी को सौंपे गए कर्तव्यों का निर्वाह करेगा :—

अधिकारी का नाम और पदनाम	सार्वजनिक परिसरों की श्रेणियां तथा स्थानीय सीमित क्षेत्र के बारे में क्षेत्राधिकार
1	2
1. श्री वी. एम. चमोला, उप प्रबंधक (कामिक एवं औद्योगिक सम्बन्ध) सिंगरौली सुपर ताप विद्युत परियोजना, शक्ति नगर जिला—मिर्जापुर, उत्तर प्रदेश	राष्ट्रीय ताप विद्युत निगम लि. के सिंगरौली सुपर ताप विद्युत परियोजना तथा शक्ति नगर, जिला मिर्जापुर, उ. प्र. स्थित क्षेत्र द्वारा नियोजित व स्वामित्व सीज तथा किराए पर दी गई सभी भूमि क्वार्टर्स, सम्पत्ति, जमीन-जायवाद तथा अन्य आवास।

[फा.सं. 8/6/91—यू. एम. (सी टी)]

टी. पी. राधाकृष्णन, अवर सचिव

New Delhi, the 25th March, 1992

S.O. 1017.— In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Schedule below, being an officer of the National Thermal Power Corporation, a statutory authority, and equivalent to the rank of a gazetted officer of the Government of India, to be the estate officer for the purpose of the said act who shall exercise the powers conferred and perform the duties imposed on the estate officer by or under the said Act, within the limits of his jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Schedule:

## SCHEDULE

Name and designation of Officer	Categories of Public premises and local limits of jurisdiction
1	2
1. Shri V.M. Chamola Deputy Manager (Personnel) & Industrial Relation), Singrauli Super Thermal Power Project, Shakti Nagar, Distt. Mirzapur, Uttar Pradesh	All lands, quarters, estate properties and other accommodation controlled, owned, leased and rented by Singrauli Super Thermal Power Project and Station of National Thermal Power Corporation Limited in Shakti Nagar, District Mirzapur, Uttar Pradesh.

[F.No. 8/6/91-US (CT)]

T.P. RADHAKRISHNAN, Under Secy.

## पर्यटन और नागर विमानन मंत्रालय

( नागर विमानन विभाग )

नई दिल्ली, 26 मार्च, 1992

का.आ. 1018 :—केन्द्रीय सरकार विमान वहन अधिनियम, 1972 ( 1972 का 69 ) की धारा 8 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पर्यटन और नागर विमानन मंत्रालय की अधिसूचना सं. का. आ. 186 (अ) तारीख 30 मार्च, 1973 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना के परा 4 में, खंड (त) में, :—

उक्त खंड द्वारा संशोधित दूसरी अनुसूची के नियम 22 में, :—

(i) उपनियम (1) में, :—

(क) "2,00,000" शब्दों के स्थान पर "5,00,000" शब्द रखे जाएंगे ;

(ख) "1,00,000" शब्दों के स्थान पर "2,50,000" शब्द रखे जाएंगे ;

(ii) उपनियम (1) (क) में, :—

(क) "200 रुपए प्रति दिन" शब्दों, और शब्दों के स्थान पर "500 रुपए प्रति दिन" शब्द और शब्द रखे जाएंगे—

(ख) "40,000 रु." शब्दों और शब्द के स्थान पर "1,00,000 रु." शब्द और शब्द रखे जाएंगे—

(iii) उपनियम (2) के खंड (क) में "एक सौ साठ रुपए" शब्दों के स्थान पर "तीन सौ रुपए" शब्द रखे जाएंगे—

(iv) उपनियम (3) में, "एक हजार रुपए" शब्दों के स्थान पर "दो हजार पांच सौ रुपए" शब्द रखे जाएंगे ।

[का. सं. एवी. 11012/5/79— ए]

पी. एस. राधाकृष्ण, अवर सचिव

टिप्पणी :—एस. ओ. 186 (ई) दिनांक 30 मार्च, 1973 में बाद में एस. ओ. 1885 दिनांक 5 जुलाई, 1980 और एस. ओ. 659 (ई) दिनांक 22 अगस्त, 1989 द्वारा संशोधन किया गया था

MINISTRY OF CIVIL AVIATION AND TOURISM

(Department of Civil Aviation)

New Delhi, the 26th March, 1992

S.O. 1018.—In exercise of the powers conferred by sub-section (2) of section 8 of the Carriage by Air Act, 1972 (69 of 1972), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Tourism and Civil Aviation No. S.O. 186(E) dated 30th March, 1973, namely:—

In the said notification in paragraph 4, in clause (p),—

In rule 22 of the Second Schedule as amended by that clause,—

(i) in sub-rule (1),—

(A) for the figure "2,00,000", the figures "5,00,000" shall be substituted;

(B) for the figures "[,00,000]", the figures "2,50,000", shall be substituted;

(ii) in sub-rule (1)(A),—

(A) for the letters, words and figures "Rs. 200 per day", the letters, words and figures "Rs. 500 per day" shall be substituted;

(B) for the letters and figures "Rs. 40,000" the letters and figures "Rs. 1,00,000" shall be substituted;

(iii) in clause (a) of sub-rule (2), for the words, "rupees one hundred and sixty" the words "rupees three hundred" shall be substituted;

(iv) in sub-rule (3), for the words "rupees one thousand", the words "rupees two thousand five hundred" shall be substituted.

[F. No. AV. 11012/5/79-A]

P. S. RADHAKRISHNA, Under Secy.

Note : S.O. 186(E) dated 30 March, 1973 was subsequently amended vide S.O. 1885 dated 05 July, 1980 and S.O. 659 (E) dated 22 August, 1989.

श्रम मंत्रालय

नई दिल्ली, 17 मार्च, 1992

का.आ. 1019.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्राक् प्रायोगिक नवें प्राक् इण्डिया, लखनऊ के प्रबंधन के संबंध विवादों और उनके कर्मचारियों के बीच, अनुबंध में विविध औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कांपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-92 को प्राप्त हुआ था ।

[सं.एन-42012/53/87-डी II (बी)]

के. वी. बी. उन्नी, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 17th March, 1992

S.O. 1019.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Archaeological Survey of India, Lucknow and their workmen, which was received by the Central Government on 13-3-1992.

[No. L-42012/53/87-D.II (B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 29 of 1989

In the matter of dispute between :

The Secretary,

Archeological Survey Muzdoor Union,  
39, River Bank Colony,  
Lucknow.

AND

The Director General,

Archeological Survey of India,  
11, Janpath,  
New Delhi.

### AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-42011/53/87-D-2(B), dated 17-1-1989 has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the Superintending Archeologist, Archeological Survey of India, Lucknow in not regularising the services of S/Sri Devi Singh, Harish Chandra, Shashi Shekhar, Asharfilal, Shiva Prasad, Dashrath and Ramesh Chandra and Mohd. Azam further terminating their services with effect from 1-4-87 is justified? If not, to what relief the concerned workmen are entitled to and from what date?

2. The industrial dispute on behalf of the 7 workmen has been raised by the Archeological Survey Mazdoor Union, Lucknow. The case of the Union is that all the workmen had completed 240 days working by doing work of permanent nature in the building branch of Lucknow Circle. When these workmen, through their Union, demanded regularisation of their services, the management terminated their services w.e.f. 1-4-87. Upon that on their behalf the Union raised an industrial dispute before the Assistant Labour Commissioner (Central), Lucknow, where a settlement was reached between the parties on 30-9-87. Under the terms of the settlement all the seven workmen were re-engaged by the management. The Union has, therefore, prayed for their wages for the period 1-4-87 to 30-9-87 and regularisation of their services from the date of their initial appointment.

3. The case is contested by the management. The management plead that in the Archeological Survey of India casual labourers are engaged for the execution of work against approved estimates. The scheme does not provide for regular engagement of casual labourers. However, on humanitarian grounds, the practice is to allow the engagement of same casual labourers as and when the execution of work started which however does not confer upon them any permanent status. The absorption of casual labourers depend on schemes and on their execution. They absorbed as and when vacancies occur and schemes are executed. With regard to the claim for arrears of wages for the period 1-4-87 to 30-9-87 the management plead that wages are paid only when actual work is done by the casual labour against the approved estimate and not otherwise.

4. In support of their respective cases both sides have led oral as well as documentary evidence. Whereas the Union has examined Sri Devi Singh workman, the management have examined Sri H. K. Narain, Superintending Archeologist, Lucknow Circle.

5. In para 4 of the claim statement the Union has referred to the settlement dated 30-9-87 arrived at between the parties under which all the 7 workmen were re-engaged. Ext. M.1, is the copy of said settlement. In view of the settlement arrived at between the parties the question whether or not the action of the management in terminating their services w.e.f. 1-4-87 was justified becomes redundant.

6. The Union has claimed wages of all the 7 workmen for the period 1-4-87 to 30-9-87. I have gone through the settlement dated 30-9-87 and find that it is nowhere provided in it that these workmen would be paid wages for the said period. Hence this relief as claimed by the Union cannot be granted.

7. The last point which needs determination is that of regularisation of the services of these workmen. It has been submitted from the side of the management that the question of regularisation of their services does not arise in view of the order dated 26-11-86 passed by Central Administrative Tribunal, Allahabad in O.A. No. 33/86 Govind Kanji Parmar and others Versus Union of India and others. The copy of order has been filed by the management witness with his affidavit and also by the management with their written arguments.

8. The above case was between 7 workmen and the Archeological Survey of India. The workmen were seeking regularisation in the post of Mistri and were further seeking orders restraining the management from terminating their services as the management had been treating them as daily workers and denying them the benefits available to the permanent employees employed with the management. Their case was that they had been in the service without any break for more than 5 to 15 years. The plea raised by the management was that they had been working as casual labourers in the cadre of Mason against the estimated repairs of the western porch of Dwarika Temple w.e.f. 15-7-86 and they were liable to be disengaged upon stoppage of repair work, completion of repair work or on their work being found unsatisfactory. The petition filed by the workmen was dismissed on the ground that they had not produced any material to show that there had been any existing sanctioned regular posts available with the department and the said post had not been filled in by taking their service. There could not be any question of regularisation when there were no sanctioned post. The evidence on record rather showed that they were engaged as and when repair work were undertaken by the management for the proper maintenance of the monuments like Dwarika Temples and other Temples as such in permanent status can be conferred upon them.

9. On the other hand in the written arguments the Union has placed reliance mainly on the following 2 rulings:—

1. Daily Rated Casual Labour Employed under P&T Department through Bhariya Dak Tar Mazdoor Manch Versus Union of India and others 1988 Lab IC 37 S.C.
2. Writ Petition (C) No. 1280 of 1989 Ram Gopal and others Versus Union of India and others (SC).

The first ruling was given in the case of Daily Rated Casual Labour employed under P&T Department and the second ruling was given in the case of workers working under the Telecom Department, Union of India. In the second case the same relief as was granted in the earlier case was granted by the Hon'ble Supreme Court. The management in both the cases were directed to prepare a scheme on rational basis for absorbing such casual labourers as had continuously worked for more than one year.

10. From the observation appearing in para 3 of the order passed by the C.A.T. Allahabad in O.A. No. 33/86 it appears that it was found by the Hon'ble Members that the workers have not been continuously engaged by the management during the relevant period. Some times they had hardly worked for a period of 2 to 4 weeks in a year and many times their services were not taken for a period of 2 to 3 years.

11. In the instant case it will be relevant to refer to para 4 of the affidavit of the management witness. In the said paragraph the management witness has deposed that absorp-

then of casual workers depends on the scheme and their execution. The casual workers are absorbed as and when vacancies occur and the schemes are executed subject to the fulfilment of condition laid down by the department and Ministry. Almost the same thing has been avetred in para 6 of the written statement. Thus it becomes evident from the own evidence of the management that there is a practice of absorbing casual workers.

12. In this case the management have filed the seniority list on the application dated 21-4-90 of the Union for summoning the same. In the seniority list are given the number of working days of each workman involved in the case and other workmen. Below I give the number of working days of each workman as shown in this list.

NAME	YEARS					
	1984	1985	1986	1987	1988	1989
Dasbrath	45	141	294	118	241	286
Shiv Parsad	—	2	216	121	269	264
Devi Singh	—	14	247	90	190	297
Asharfi Lal	—	—	260	36	245	291
Ramesh Chandra	—	43	83	84	192	166
Harish Chandra	—	—	—	85	126	27
Sashi Shekhar	—	—	—	17	11	276

The Union has not been able to challenge the correctness of the above statement. It is important to note that in the claim statement and also in the rejoinder, the Union has not given the initial dates of appointments of these seven workmen. The statement thus show that S/Sri Dasbrath, Devi Singh and Asharfi Lal had worked for more than 240 days in the year 1986 and Sri Shiv Prasad and Sri Shashi Shekhar had worked for more than 240 days in 1987. In view of the facts deposed to by the management witness in para 4 of his affidavit, settlement and the above statement of working days, I am of the view that they can be atleast granted the relief by directing the management to consider their cases for regularisation of their services, of course considering their seniority vis-a-vis other such casual labourers as and when permanent vacancies occur or created in Lucknow Circle.

13. Held that in view of the reengagement of 7 workmen under the settlement dated 30-9-83 arrived at between the Union and the management before the ALC(C) Lucknow so much part of the reference order as refers to the justification of the action of the management in terminating their services w.e.f. 1-4-87 has become infructuous. Further held that these 7 workmen are not entitled to any wages for the period 1-4-87 to 30-9-87. The tribunal directs the management to consider the cases of workmen other than Sri Ramesh Chandra and Harish Chandra for regularisation of their services, of course considering their seniority vis-a-vis other such casual labourers as and when regular vacancy occur or created in the Lucknow Circle.

14. Sri Ramesh Chandra and Sri Harish Chandra are held entitled to no relief.

15. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 17 मार्च, 1992

का.प्र. 10/90—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में केन्द्रीय सरकार, भारतीय रिजर्व बैंक के प्रबंधन के संज्ञक नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोलम के पंचद को प्रकाशित करने है जो केन्द्रीय सरकार को 16-3-92 को प्राप्त हुआ था।

[नया प्र. 12011/9/91/आई.प्र. (बी-III)]

एस. सी. शर्मा, डेस्क अधिकारी

New Delhi, the 17th March, 1992

S.O. 1020.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India and their workmen, which was received by the Central Government on the 16-3-92.

[No. L-12011/9/91-IR (B-III)]

S. C. SHARMA, Desk Officer

#### ANNEXURE

#### IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 7th day of March, 1992)

#### PRESENT:

Shri C. N. Sasidharan, Industrial Tribunal,

#### IN

Industrial Dispute No. 16/91

#### BETWEEN

The Manager, Reserve Bank of India, Reserve Bank Junction, Trivandrum.

(By Sri K. M. Mani, Staff Officer Gr.-A, Reserve Bank of India, Trivandrum).

#### AND

Sri Mohanachandran Nair, Secretary, Reserve Bank Workers Union, C/o. Reserve Bank of India, Reserve Bank Junction, Trivandrum

(By Sri M. Jalaludeen, Chief Secretary, Reserve Bank Workers Union (Regd.) Trivandrum-33.)

#### AWARD

The Government of India as per Order No. L-12011/9/91-IR.B.III dated 29-4-1991 have referred this industrial dispute to this Tribunal for adjudicating the following issue :

"Whether the action of the management of Reserve Bank of India in proposing full wage cut on 21st and 25th June, 1990 in respect of the following workmen is legal and justified? If not, to what relief the workmen are entitled to?"

Sl. No.	Name	Designation
1	2	3
1.	Shri C.K. Sasidharan	Daftry
2.	Shri K.G. Madhavan	Water Boy (PT)
3.	Shri K.R. Somarajan	-do- (Khidmatgar w.e.f. 10-7-1990)
4.	Shri K.R. Saseemdran	Farash
5.	Shri M.A. Jayan	-do-
6.	Shri C.K. Padmanabhan	Sweeper
7.	Shri R.L. Luggsingh	Liftman
8.	Shri M. Jalaludeen	Electrician-Cum-Wireman
9.	Shri S. Mohanachandran Nair	Peon
10.	Shri. T. Sasidharan	-do-
11.	Shri T.A. Abraham	Daftry
12.	Shri C. Basurangan	Mazdoor
13.	Shri A.K. Achankunju	Peon
14.	M. B. Rajendran Pillai	Mazdoor
15.	Shri C. Ramachandran Nair	Daftry

2. The union espousing the cause of the workman involved in this case has advanced the following contentions :

It was the conventional and traditional practice of the Trivandrum office of management for the last 36 years to make appointments of maintenance staff including security staff on regular basis directly by the management Bank. The management violating this accepted practice unilaterally entered into a contract system with an outsider for supply of required number of security staff to be posted at the Bank Officers Quarters. The action of the management was irregular and anti labour. The Bank's action is anti national also. The union took up the matter with the management and resorted to dharna action for four days on 21st, 22nd, 23rd and 25th June 1990. The action was withdrawn on 25th June 1990 AN. Thereafter the management resorted to vindictive measures. The management accordingly issued office orders dated 10-7-1990 and 24-7-1991 proposing wage cut for the proportionate periods. In supersession of these orders the management again issued order dated 25-6-1990 cancelling proportionate wage cut and proposing wage cuts for full days. The conciliation efforts ended in failure and that resulted in this reference. According to the union there is no justification on the part of the management to effect full days wage cut on the days referred above. The prayer is to cancel the full wage cut proposed by the management.

3. The management in the reply statement has advanced their contentions which are as under. There is no industrial dispute arising in this case for reference. The employees were admittedly on dharna on the days in question and the action of management Bank is in accordance with law. The claim of the employees is not maintainable and liable to be dismissed. The Bank has issued a circular dated 6-7-88 providing for full day's wage cut for causing disruption of public service by not discharging duties even for a part of the business hours. The union or the workmen has not challenged this circular or office order. The workmen having agreed to work during the working hours for the whole day cannot choose at their fancy to work only at certain hours. This is in breach of the contract. The holding of the Dharna by the class-IV employees dislocated the work of the Bank, and caused inconvenience to the public and constituents of the Bank. The dislocation of work by the staff on Dharna affected the smooth flow of papers and other related work of the Bank and the work of the Bank was seriously affected. The action of the management to effect full wage cut was reasonable and just. The decision of the Bank for engaging contract labour for security and maintenance is in accordance with law. This is a matter for the management to decide. The management denies all other allegations made by the union against the management. According to the management the claim of the union is only to be dismissed.

4. The union has filed a rejoinder denying the case pleaded by the management and reaffirming the contentions advanced by the union.

5. No evidence has been adduced by either side. However the two circulars produced by the management have been marked as Ext. M1 and M2 by this Tribunal for convenience of discussion.

6. The only point arising for consideration is whether the action of management Bank in proposing full wage cut in respect of the employees involved in this case is legal and justified. Admittedly the employees were on Dharna. It is also not disputed that after the Dharna they have attended their work on the very same day. No evidence has been adduced by either side regarding the hours of work done by the workmen on that day. According to the management because of the Dharna resorted to by the workmen the work of the bank was dislocated and caused inconvenience to the public and constituents of the Bank. In the affidavit filed by the banking officer of the management Bank it is averred that the Dharna was in front of the manager's office that the manager is the head of Trivandrum office that the Dharna before his chamber naturally affected the working of the manager's office and also inconvenienced the members of the public who had to deal with the manager on office work and that the dislocation of the work by Class-IV employees affected smooth flow of papers and files in the sections of the Bank and consequently the work of the Bank was seriously affected. The averment of the banking officer remains uncontroverted. The management placed strong reliance on two circulars Exts. M1 and M2 mentioned above. Ext. M1 circular dated 6-7-1988 issued by the counsel office of the Bank provides for full day wage cut for causing disruption of the public service by not discharging duties even for a part of the business hours. Ext. M2 is the circular issued by the Trivandrum office wherein also it is specified that the employees will not be entitled to pay and allowance for the whole of the day even though they may have worked for the rest of their normal duty hours. The union or the employees never challenged Exts. M1 and M2 circulars. These are administrative orders and as pointed out by the Supreme Court in *V. T. Khazode V. Reserve Bank of India* (1981) 11 LJ 465 administrative directions or circulars have the authority of the statute. Exts. M1 and M2 fully empowers the management in effecting wage cut for causing disruptions of work even for a part of the business hours. On the strength of Ext. M1 and M2 circulars the management passed the impugned orders effecting full wage cut. The question here is whether full day wage cut is justifiable.



As the management has placed reliance on a recent decision of the Supreme Court in *State of Madras v. P. V. Kelawala and others* (1992) (II) 144 22 in support of their action. In that reported decision the workmen resorted to four hours strike and thereafter they reported for work and the Bank did not prevent them from doing work. Thereafter the Bank issued a circular on the strength of an earlier circular issued by the Bank in 1977 warning the employees that if they participated in the strike they would not be entitled to draw the salary for full day and that they need not report for work for the rest of the working hours on that day if they resorted to strike. The High Court quashed the order of the Bank. Finally the matter went to the Supreme Court and the Supreme Court upheld the decision of the Bank. Of course in that case after the four hours strike when they reported for work there was no work to do during the rest of the hours. So the workmen involved in that case have not done any work after the four hours strike. So the decision of the Bank to effect full day wage cut was justified. This decision according to me has not direct bearing to the facts of the present case. However the principles laid down in the above decision are applicable here. Paragraphs 22 to 25 in the above judgment are necessary to quote which reads as below:

22. "The principles which emerge from the aforesaid authorities may now be stated. Where the contract, Standing Orders of the service rules/regulations are silent on the subject, the management has the power to deduct wages for absence from duty when the absence is a concerted action on the part of the employees and the absence is not disputed. Whether the deduction from wages will be pro rata for the period of absence only or will be for a longer period will depend upon the facts of each case such as whether there was any work to be done in the said period, whether the work was in fact done and whether it was accepted and acquiesced in, etc."

23. "It is not enough that the employees attend the place of work. They must put in the work allotted to them. It is for the work and not for their mere attendance that the wages/salaries are paid. For the same reason, if the employees put in the allotted work but do not, for some reason may not even as a protest comply with the formalities such as signing the attendance register, no deduction can be effected from their wages. When there is a dispute as to whether the employees attended the place of work or put in the allotted work or not, and if they have not, the reasons therefor etc., the dispute has to be investigated by holding an inquiry into the matter. In such cases, no deduction from the wages can be made without establishing the omission and/or commission on the part of the employees concerned."

24. "When the contract, Standing Orders, or the service rules/regulations etc. silent, but enactment such as the Payment of Wages Act providing for wage-cuts for the absence from duty is applicable to the establishment concerned, the wages can be deducted even under the provisions of such enactment."

25. "Apart from the aforesaid ratio of the decisions and the provisions of the payment of Wages Act and similar statutes on the subject, according to us, the relevant provisions of the major legislation governing the industrial disputes viz. the Industrial Disputes Act, 1947 also lend their support to the view that the wages are payable pro rata for the work done and hence deductible for the work not done. Section 2(f) of the said Act defines "wages" to mean "all remuneration which would, if terms of employment, expressed or implied, were fulfilled, be payable to workman in respect of his employment or work done in such employment..." while Section 2(g) defines "strike" to mean "cessation of work" or "refusal to continue to work or accept employment by workman." Reading the two defini-

tions together, it is clear that wages are payable only if the contract of employment is fulfilled and not otherwise. Hence, when the workers do not put in the allotted work or refuse to do it, they would not be entitled to the wages proportionately."

The High Court of Madras has considered a similar point as involved in the instant case in writ petition Nos. 10241/82, 994 and 995/83, 4707, 4710 and 4925/81 (certified copy of the judgment has been produced here by the union) and relying on the above Supreme Court decision quashed the office orders and circulars imposing wage cut issued by the Reserve Bank of India and directed the Bank to impose pro rata wage cut in accordance with the judgment in *Kelawala's case* (supra). In the cases before the High Court of Madras mentioned above the Reserve Bank imposed wage cut in certain cases for the full day since the employees did not complete their work though they attended for work and partially completed their work.

8. It is clear from the above decisions that the full wage cut from the wages of employees who have attended their work partially is not justified. The Supreme Court in *Kelawala case* has specifically pointed out in paragraph 22 that whether deduction of wages will be pro rata for the period of absence only or will be for a longer period will depend upon the facts of each case. In the case before me the workman admittedly reported for duty and continued their work after the period of Dharna. Both sides have not adduced any evidence regarding the volume of work done by the workmen on that day. It is true that as per the affidavit filed by the banking officer before this Tribunal the work of the bank was seriously affected because of the Dharna. But the management has no case that because of the Dharna the whole day's work was disrupted. It is not established also. The fact remains that the workmen in question have done their work after the Dharna which was accepted and acquiesced in by the management. So in the light of the observations made by the Supreme Court in *Kelawala's case* and judgment of the High Court of Madras mentioned above there is no justification for the full day wage cut imposed by the management. The management will be at liberty to deduct pro rata wages which is not at all disputed by the learned representative of the union who argued the case for the workmen.

9. In the result, an award is passed holding that the action of the management of Reserve Bank of India in imposing full day wage cut on 21st and 25th June, 1990 in respect of the workmen involved in this case is illegal and unjustified. The workmen are accordingly entitled to get pro rata wages.

C. N. SASIDHARAN, Industrial Tribunal

## APPENDIX

Documents marked on the side of the Management:

Ext. M1—Photocopy of circular issued by the Central office of the management Bank dated 6th July, 1988.

Ext. M2—Photocopy of office order No. 32 issued by the Reserve Bank of India Trivandrum office dated 23rd July, 1988.

नई दिल्ली, १७ मार्च, १९९२

का. प्र. १०२१.—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ का १४) की धारा १७ के अनुसरण में, केन्द्रिय सरकार भारतीय स्टेट बैंक के प्रबंधकों के संरक्षित निगमों और उनके अधिकारों के बीच, प्रमुख में निर्दिष्ट औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकार व श्रम न्यायालय जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रिय सरकार की १७-३-९३ की प्राप्त हुआ था।

[संख्या एल-१२०१२/४९/८९/आई.आर. (बी-III)]

एस. सी. कर्मा, हेड अधिकारी

New Delhi, the 17th March, 1992

S.O. 1021.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employees Bhaiyalal Dhok, Village Bhorgarh, Tehsil Waraseoni, District Palghat (M.P.)-481001.

[No. L-12012/49/89-IR (B. III)]

S. C. SHARMA, Desk Officer.

#### ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

CASE NO. CGIT/LC (R) (3)/1991.

#### PARTIES :

Employers in relation to the management of State Bank of India, Regional Office, Marhatal, Jabalpur and their workmen Shri Premchand Dhok S/o Shri Bhaiyalal Dhok, Village Bhorgarh Tehsil Waraseoni, District Palghat (M.P.)-481001.

#### APPEARANCES :

For Workman : Shri D. P. Tiwari.

For Management : Shri A. K. Verma.

INDUSTRY : Banking. DISTRICT : Jabalpur (M.P.).

#### AWARD

Dated : January, 27th 1992.

This is a reference made by the Central Government in the Ministry of Labour, vide its Notification No. L-12012/49/89-IR. B. III, dated 15-1-1991, for adjudication of the following dispute :—

"Whether the action of the management of State Bank of India in terminating the services of Shri Prem Chand Dhok from the month of September, 1988 was justified? If not, to what relief the workman is entitled to?"

2. Shri Prem Chand Dhok was an employee of the State Bank of India. He was called for the interview and rejected. His services are said to have been terminated with effect from September, 1988.

3. The workman says that he worked as Sub-staff since 26-12-1978 at the Bank's Waraseoni Branch in Balaghat District. He has been in continuous employment upto 13-11-1981. His claim for permanency was not granted hence he approached the union. Accordingly he was re-employed with effect from 11-3-1983. Since he was after of being stopped from service he did not raise this case. During the continuency of his employment a settlement signed by the Bank with the State Bank of India employees Union, Bhopal circle on 15-2-1985 providing for opportunity of permanent employment of all such of the members of the sub-staff who had worked aggregating 90 days upto 31-10-84. The workman was not given the status of permanent employee and instead he was called upon to appear in the alleged interview on 19/20-3-1986.

4. Even thereafter the workman continued in service. Later on he was told that he was over age at the time of his initial appointment on 26-12-1978 and the management had referred the matter to the Central Office, Bombay, for their decision. After lapse of some time he was given to understand that his case for permanent appointment has been decided against him. He was thereafter discontinued from service. He has been paid Rs. 2182.89 P. by way of retrenchment compensation and Rs. 784.46 P. being the wages for the period 1-9-1988 to 22-9-1988 as also Rs. 479.50 P. towards 14 days' notice pay. Since his termination had taken place during the conciliation

proceedings it is void ab initio. He should have been given an opportunity of being heard prior to effecting termination in the case of contemplated retrenchment. The order of termination is liable to be quashed and the workman is entitled to the aforesaid relief.

5. Management says that the workman worked for the following days :—

1978 : 004 days.

1979 : 165 days.

-1980 : 163 days at Waraseoni Branch.

1981 : 257 days.

11.03.83 to

22.09.1988 : All Bhorgarh Branch.

His employment was purely temporary on daily wages. Management decided to give chance to all such daily wagers who have put in 90 days of service. The selection was held on 19th and 20th March, 1986. The workman was given a chance to face the selection to be permanently absorbed. The prescribed age is 26 years and his date of birth as disclosed by him was 18-08-1950. He was found over age even on the date of his initial appointment in the year 1978. Therefore he could not be given permanent employment. Consequently he was put off the rolls. He was paid retrenchment compensation but the same was not accepted by the workman. The workman is not entitled to any relief whatsoever. Thus the reference is liable to be rejected.

#### FINDINGS :

6. Workman has proved documents Ex. W/1 to Ex. W/6 while the management has proved documents Ex. M/3 to Ex. M/5.

7. Undisputedly the workman had worked since the year 1978 in breaks as per Ex. W-1. He has put in 165 days service in the year 1979, 163 days in the 1980 and 257 days service in the year 1981. As per Ex. W/3 which was issued on 24-6-1987 the workman was working with the management as Messenger (Protracted employee) since 11-3-1983. As per order of reference his services were terminated in the month of September, 1988. It follows that after 11-3-1983 he worked upto September, 1988 as Messenger (Protracted). There is nothing to dispute this fact.

7. The management has shown that on the date of his initial appointment he was above 26 years, his date of birth being 18-8-1950. It is not understandable as to why he was called for interview when he was over age (Ex. M/6). It is not the case of the management that the authorities could not take a decision to give relaxation to the age in the circumstances of this case when the workman was working right from 1978 as detailed above. This was a fit case where he should not have been rejected on the ground that he was over age. Even if it was so, it was within the powers of the management to relax the age and the management would have done so but the management has remained silent on the point that his case was referred to Bombay for relaxation of his age but was rejected.

8. Whether the management powers to relax the age of the workman or not, this a fit case where this Tribunal which is even competent to create contract in exercise of its powers give the relaxation to the age of the workman. He will be deemed to be in continuous service from 11-3-1983, he should be regularised and give all the benefits arising therefrom, but he would not be entitled to wages and the period of his absence shall be treated as dies non. Reference is answered as follows :—

The action of the management of State Bank of India in terminating the services of Shri Prem Chand Dhok from the month of September, 1988 was not justified. He will be deemed to be in continuous service from 11-3-1983 and he should be regularised and give all the benefits arising therefrom but he will not be entitled to back wages. His period of absence shall be treated as dies non. No order as to costs.

V. N. SHUKLA, Presiding Officer.

नई दिल्ली, 17 मार्च, 1992

का. प्र. 1022.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड कमर्शियल बैंक के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचतपस को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/67/84-डी-2(ए)]

वी. के. वेणुगोपालन, डस्क अधिकारी

New Delhi, the 17th March, 1992

S.O. 1022.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial dispute between the employers in relation to the Management of United Commercial Bank and their workmen, which was received by the Central Government on the 16-3-92.

[No. L-12012/67/84-D.II(A)]

V. K. VENUGOPALAN, Desk Officer.

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

## REFERENCE NO. 1 OF 1985

## PARTIES :

Employers in relation to the management of United Commercial Bank;

AND

Their workmen.

## PRESENT :

Mr. Justice Manash Nath Roy, Presiding Officer.

## APPEARANCE :

On behalf of management.—Mr. K. K. Mondal, Mr. P. Sen Kishore, Dy. Chief Officer (Law).

On behalf of workman.—Mr. D. P. Roy, General Secretary.

STATE : West Bengal.

INDUSTRY : Bank.

## AWARD

1. Over the issue of termination of service of Sri Ganapati Das Adhikar (hereinafter referred to as the said employee), a Sub-staff, with effect from October 10, 1982, a dispute arose as to whether such action of the United Commercial Bank, Calcutta (hereinafter referred to as the said Bank), was justified was referred for adjudication before this Tribunal, by the Government Order of Reference vide No. L-12012/167/84-D.II(A) dated January 3, 1985, under section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act).

2. On completion of service, parties to the dispute entered appearance and contested the respective claims, by filing their written statement and through their evidence both oral and documentary.

3. The case of the said employee was represented by All India United Commercial Bank Staff Federation (hereinafter referred to as the said Federation), who, by their written statement dated April 22, 1985, claimed inter alia amongst others that the said employee was working as a Sweeper-cum-Farash in the Jorasanko Branch of the said Bank, which is a Nationalised one, since his appointment on July

3, 1981 and continued his work, excepting with some breaks, till October, 11, 1982 and was paid @Rs. 12 per day and was not paid the full salary of a subordinate staff.

4. It has been alleged that there was a permanent vacancy of a Sweeper-cum-Farash at the concerned Branch of the said Bank and although the said employee was working there as such, instead of confirming him in the post, his services were terminated illegally and some other person has been absorbed in that post by the said Bank. It has also been alleged that according to the Bipartite Settlement of 1966 (hereinafter referred to as the said Settlement), the said employee was entitled and eligible to get preference in the matter of filling up the post permanently, as, he worked in the post temporarily and discharged his duties satisfactorily.

5. It was claimed that the action of the said Bank was in effect, a termination of the services of the said employee and such action was void, irregular and illegal, apart from the fact that the appointment of some other person, as given in his place, was also illegal, motivated and malaude, more particularly when, the said Bank, in their various branches at Calcutta and suburbs, have the necessity to employ such Sweepers or require their services and particularly when, there were and are vacancies in the post, available. It was also claimed by the said Federation that in the existing vacancies in the post, the said employee can be absorbed.

6. As such, it was prayed that the said employee be absorbed/reinstated as Sweeper-cum-Farash, in any branch of the said Bank in West Bengal and he be paid his back wages with effect from the date of his termination of service.

7. It was the case of the said Bank that the services of the said employee were utilised as a Sweeper at their Jorasanko Branch, purely on a casual and daily rate basis, from July 3, 1981 to March 30, 1982, with occasional breaks, during the absence on leave of one Tarapada Ash, Peon-cum-Farash of that branch, as the said Sri Ash, met, with an accident and was hospitalised. It has also been stated that thereafter, the said employee had the advantage of being employed on March 31, 1982, June 27, 1982, June 29, 1982 to July 7, 1982, July 9, 1982 to August 1, 1982, August 3, 1982 to October 10, 1982, due to the absence on leave of one A. B. Balmiki, a permanent Sweeper of the branch. It has also been stated that over the engagement of the said employee, who, as stated, was employed on purely temporary, stop gap and daily rate basis, they had no right or control over his nature of work nor the said employee was subjected to any disciplinary action or in other words, the said Bank had no control and direction over the method and manner of work of the said employee. Such statement could, in my opinion, be hardly believed and accepted.

8. It has also been stated that the said Bank that assignment of jobs of various in nature on daily wage basis, was made to the said employee and that too, for a particular post and the jobs he performed on various dates as mentioned earlier, would not warrant his absorption or confirmation as "Sweeper-cum-Farash" or in any other capacity. It was stated that such non-absorption or non-confirmation of the said employee, in the facts of this case, was not in contravention of any of the provisions of the said Act or Sastri Award, or the said settlement, as alleged. It has also been submitted that no right accrued to the said employee, for confirmation or absorption in the said Bank as permanent sub-staff and no case has been duly made out for the same, showing that he was legally entitled to such advantage. It has further been alleged that there was no relationship of master and servant between the said Bank as the said employee at any point of time, since, as stated, he had worked only on contract basis and as such, had also no right to be considered for appointment or absorption and confirmation for any permanent post of sub-staff.

9. It was the case of the said Bank that the said employee, was never employed by them in the regular employment or and there was no letter of appointment issued to him, indicating his terms of employment or conditions of service and he was not required to sign the attendance register. It has further been claimed by the said Bank that the usual

procedure in a case of the present nature, is to assess the vacancies and fill them up through Employment Exchange, as per Government directives and direct appointment of a candidate is not usually made or permitted. The said Bank has stated that, after selection of the candidates, they are served with letters, calling employment, containing details of terms and conditions of service and on the attending candidates accepting the offer unconditionally, they are allowed to join the duties. In any event, it has been stated that since the said employee was not terminated by the said Bank and he was not a regular employee of the said Bank, so the question of termination of his services could not arise. Such being the position, it has been stated that neither section 43B read with section 43D of the said Act, would be applicable in this case and for that, there cannot be any Industrial Dispute in the matter.

10. It was pointed out by the said Bank that the services of the said employee had to be resumed, only during the absence of two permanent members of subordinate staff of the branch, whose particulars have been indicated earlier and there was no permanent post for the said employee's absorption in the said Bank's regular service and his services were not required, when the permanent incumbents resumed their duties. It has also been alleged that even if there was a permanent vacancy existing, there was no question of offering the said employee, any opportunity of regular appointment for filling up those vacancies and under the existing procedure, the said Bank was required to notify the vacancies, to the relative Employment Exchange and consider the case of the candidates sponsored by the said Exchange on the basis of Government directive and in this case, it has been categorically stated that such procedure was not required to be gone into in this case, as the services of the said employee were only resumed, when permanent incumbents were absent on leave. Such being the position, it has been claimed that the said Bank's action in this case, was quite in order and there was no legality of any irregularity and any contravention of the terms of service and conditions of employment of the said employee.

11. There was no rejoinder filed to the above written statement, but it appears that the said Union, on February 12, 1990, filed an application for amendment, incorporating prayer (c) to the effect that the said employee be paid the full wages of a staff of subordinate cadre of the said Bank as per industrywide wage structure of the Bank employees, for the period, he worked in the said Bank, deducting the amount already paid to him @ Rs. 12 per day. It appears that such prayer for amendment by way of the Additional Written Statement as filed on February 12, 1990, was not allowed, but on March 21, 1990, the same has been directive to be kept on record.

12. The said employee deposed as WW-1 and after indicating that he worked continuously till the termination of his service, which was done without giving any compensation and without a notice of termination, he has said that another person was appointed to the said branch immediately thereafter and in spite of his repeated request, he was not employed again in the Branch or any other Branch of the said Bank. He could not of course either produce or recollect, if he was given any appointment letter at the time of his appointment, but he agreed that he did not sign any attendance register of the said Bank. He has of course stated that it was not true that he was called to duty only on some days in a week and further agreed that he was paid weekly at the daily rate basis and was not paid wages for the holidays and Sundays. He has of course deposed that he served the Branch of the said Bank continuously and without any break. He has stated that the person, who was appointed in the Branch immediately after termination of his service, was appointed on transfer from Bakuliola Branch.

12 WW-2 Sri Nirmalendu Chakraborty, an Inspecting Officer of the said Bank and posted at the Head Office on August 29, 1990 deposed that he was the Manager of Jorasanko Branch of the said Bank from the end of February to May 1987 and has stated that the certificate Exhibit W-1 related to the said employee and the same was issued on August 23, 1982 under his signature. He also stated that

Exhibit W-2 contained his initials. It was his further evidence that he came to know from the vouchers of the said Bank that the said employee worked in the concerned Branch from July 3, 1981 and according to his knowledge, the said employee was paid wage @ Rs. 10 while on that date, the rate of daily wages was Rs. 12. He has of course, agreed that the said employee was employed in the Branch on daily basis, against leave vacancies of a permanent employee Sri Narapada Ash and it was his evidence that it is not a fact that the said employee was employed against the vacancy created by promotion of an employee. It was his further evidence that the said employee never signed any attendance register of the Branch and all employees of the Branch of the said Bank, from Manager to Sub-staff were/are required to sign the attendance register, under the Rules. The said attendance register has been marked as Ext. M-1. It should be noted here that in that exhibit, in line with the evidence as recorded earlier, the signature of the said employee was not available. This witness has of course stated that the said employee used to perform the duties in terms of the said Bank's working hours and the Manager of the said Branch, of course, had no control over the attendance and departure of the said employee and he could not demand any leave from the Bank, as he was not entitled to the same. The witness has further agreed that the said employee was not given any appointment letter and he was not given employment through the Employment Exchange and the Branch Manager had neither any control over the services of the said employee nor had he power to recruit any sub-staff. It was also the categorical evidence of this witness that there was no relationship of employer and employee between the said Bank and the said employee.

13. The evidence of the said Bank was tendered through Subhas Chandra Bhowmik MW-1, who was the Manager of the concerned Branch from 1987 to 1991. He has indicated that for recruitment of sub-staff, request is to be made to the concerned Employment Exchange, to send the names of the candidates and thereafter, selection is made from amongst those candidates and the Branch Manager has no hand over such appointment. He has stated that in the concerned Branch there was no post of Sweeper-cum-Farash and there is a post of Peon-cum-Farash and the employees of all the categories are required to sign the attendance register. He has stated that in the attendance register Ext. M-1, the name of the said employee do not appear from July 1981 to October 1982 and in his place, the name of one A. B. Balmiki appears. He has stated that during his time, one Dilip Samanta was acting as Sweeper in the Branch and still he is continuing as such. He has further stated that on going through the records, he has not been able to find out any paper, regarding the engagement of the said employee, as Sweeper. He has stated that exhibit M-1 was issued, since the said employee requested him for a certificate, for employment else where. He has further stated that since the appointments are made on sponsoring by the concerned Employment Exchange, so he thinks that Sweepers are also to be sponsored by such Exchange. He has stated to have no idea about appointment of any Sub-staff by the Manager and on the demands of the Union, as it was settled that such staffs are to be absorbed. He has of course stated that he came to know about the circulars, wherein it was mentioned that sub-staffs completing some days of work, should be given chance of absorption and Employment Exchange has to sponsor the employment of such sub-staff and he was not aware, whether such procedure was followed for appointment of Sweepers in the said Bank. It was his evidence sub-staffs do get full time duty, while the sweepers are not and there are full time sweepers in larger Branches. It was his evidence that if the said employee was employed as sweeper, then his name would have appeared in Exhibit M-1. As indicated earlier, the name of the said employee was not available in the said Exhibit and from the records he further testified that the said employee was paid for part time job and other nature of jobs and some times, he was asked to bring the Ledgers and clean them, although the same was the duty of a Peon-cum-Farash. He had no idea about the internal procedure to be followed, for appointing a sweeper to a sub-staff and it was his specific evidence that the said employee was never asked to do the work of a peon. It was also his evidence that if appointment letter is given to any employee, his name would appear in the Attendance Register, Ext. M-1.

14. Mr. Mondal appearing for the Management indicated that the said employee was employed, not only on casual but on daily basis from July 3, 1981 and he also worked upto March 30, 1982, in some temporary vacancies on transfer of permanent employees or when they were on leave. It is his evidence that he worked in place of the said Sri Bannik. It was indicated by Mr. Mondal that there is no evidence that the said employee was employed continuously for 240 days. He of course stated that he was employed in two capacities, firstly, in place of peon and secondly, in place of a sweeper. He submitted that no appointment letter was given to the said employee, for his employment in the casual vacancies or for appointment in a regular vacancies. He was only a casual employee and thus, not a workman under the said Act. 1. has been indicated that the said Bank had no control over the appointment of the said employee nor he was amenable to the service conditions of the said Bank or required to sign the attendance Register. In fact, it was stated that no appointment letter was given to the employee and not even on the temporary employee of the said Bank. It was further pointed out by Mr. Mondal that there is no such designation of Sweeper-cum-Farash in the said settlement and from the evidence of WW-1 and WW-2, it will appear that there was in fact, no master and servant relationship between the said employee and the said Bank and he was employed only on temporary occasional vacancies and according to vouchers of the said employee, he worked for 183 days only and there is also neither any evidence of his continuous service nor such service has been proved in this case.

15. Mr. Roy appearing for the said employee indicated that the said employee was employed as Sweeper-cum-Farash, which is a combined designation and changed from time to time. He indicated that from Ext. W-1 and W-2, it will appear that the said employee served in the said Branch of the said Bank, initially from July 3, 1981 to March 3, 1982 and then, from April 1, 1982 to October 11, 1982 and from Ext. W-2 it will also appear that he discharged his duties satisfactorily.

16. On a reference to paragraph 23.15 of Desai Award, Mr. Roy submitted there cannot be any casual employee employed in any Bank, when that paragraph stipulates only four categories of employees viz permanent employees, probationary, temporary employee and part time employee. It was further pointed out by him that on a reference to paragraph 21.20 of that Award, the classification of employees in a Bank will be available and there is also no mention about casual employees. It was also submitted by him that the action of the said Bank in this case, when the said employee had actually completed 240 days of work and thereafter who refused employment, would be a case of terminating his services and as such, he would be entitled to the benefits of Sections 25B and H of the said Act, which deals with the definition of continuous service and Re-employment of retrenched workmen respectively, the more so when, vacancies are there. It was also indicated by Mr. Roy that other things being equal, the said employee should, in all fairness, be given a preference in respect of employment in the capacity as mentioned, when vacancies are available. Mr. Roy further submitted that the said employee will have no choice, but since vacancies are available, he be given employment any where and in any Branch of the said Bank, as a Sweeper. On the basis of the pleadings, the evidence as available and the facts as noted earlier, there is no doubt that the said employee was purely a casual one. His name was not appearing in Ext. M-1 i.e. attendance register, where the names of all employees of the said Bank of the concerned Branch are entered and they are required to sign the same. About the directions and control, which has been alleged that the said Bank did not have control over the said employee, I have already indicated that such statement is very difficult to be accepted, but as the character of the said employee was purely a casual and not a temporary one and was admittedly meant on available vacancies on leave or otherwise, the said employee in my view, cannot claim any benefit and the more so when there has been no evidence, proving his continuous employment in his service for 240 days. The main basis of the submissions and defence of the said Bank, have also been appropriately corroborated by the witness of the said employee viz. WW-2.

18. As such, the employee in my view, cannot succeed and the reference should be rejected. But, I feel that when a large organisation like the said Bank, has many branches in India and they require the services of sweepers, and when the said employee has agreed that he will not have any choice, he may be offered employment any where in any Branch of the said Bank in India, and his case for appointment as a Sweeper, may be favourably considered in accordance with law, if he is otherwise suitable and qualified.

This is my Award.

Dated, Calcutta.

The 25th February, 1992.

M. N. ROY, Presiding Officer.

नई दिल्ली, 17 मार्च, 1992

का. प्रो. 1023.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसूच में, केन्द्रीय सरकार सेक्टर बैंक प्रा. इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/27/90-प्रो. प्रार. (के-1)]

श्री. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 17th March, 1992

S.O. 1023.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the Management of Central Bank of India and their workmen, which was received by the Central Government on the 16-3-1992.

[No. L-12012/27/90-IR(B.II)]

V. K. VENUGOPALAN, Desk Officer

## ANNEXURE

BEFORE SRI ARIAN DEV PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
CUM LABOUR COURT PANDU NAGAR, KANPUR.

Industrial Dispute No. 212 of 1990,

In the matter of dispute—

BETWEEN :

Sri Anil Kumar Gaur  
House No. 2/130-A  
Singi Gali Agra.

AND

Regional Manager  
Central Bank of India  
8/1 Chowk Bazar Agra.

## AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/27/90-IR-B.II dated 12-10-90 has referred the following dispute for adjudication to this Tribunal :

"Whether the Regional Manager, Central Bank of India Agra was justified in terminating the services of Sri Anil Kumar Gaur in subordinate Cadre w.e.f. 15-6-84 is justified? If not to what relief the workman was entitled to?"

2. In the instant case on 28-2-92, Sri H. S. Goel appearing for the workman moved an application to the effect that the workman got the employment under the management and had requested that a no claim award be passed in the case as the workman does not want to press the present claim.

3. In view of the prayer made by the authorised representative for the workman and also in view of the application moved on 28-2-92 it appears that there remains no dispute between the parties.

4. Therefore, in view of the above, a no claim award is given against the workman.

5. Reference is answered accordingly.

ARJAN DEV, Presiding Officer.

नई दिल्ली, 16 मार्च, 1992

क्र.सं. 1034--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एनियन बैंक प्राकृष्टिया के प्रबन्धतंत्र के संबंध निधीओं और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, 1947 के अनुच्छेद 17 के अधिनियम के अन्तर्गत, जो केन्द्रीय सरकार को 13-3-92 को प्राप्त हुआ था।

[संख्या एन-12012/393/87-डी-2(ए)]

वा. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 16th March, 1992

S.O. 1024.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 13-3-1992.

[No. L-12012/393/87-D.II(A)]

V. K. VENUGOPALAN, Desk Officer

#### ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 84 of 1988

In the matter of dispute :

BETWEEN

Sri P. N. Tewari General Secretary U.P. Bank Employees  
Union 165 Sohbatiya Bagh Allahabad.

AND

The Assistant General Manager Union Bank of India  
Hotel Awadh Clark Building 8 M.G. Marg Lucknow.

#### AWARD

1. The Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/393/87-D.II (A) dated 14-7-88, has referred the following dispute for adjudication to this Tribunal :—

Kya Union Bank of India ke prabandhtantra ki Jahiruddin ko Prabandhtantra ke dinank 15-9-84 ke adesh dwara lipikiya samvarg se armed guard me pratyavartit karne ki karwai nyayochit hai ? Yadi nahi to karamkar kis anutosh ka haqdar hai ?

2. The industrial dispute on behalf of the workman has been raised by U.P. Bank Employees Union Allahabad.

3. The admitted facts are that the workman joined the bank as Armed Guard and was posted at Rathyatra Branch of the Bank at Varansi. He was promoted to the clerical cadre as cashier-cum-clerk vide head office letter dated 13-12-1983 and in pursuance of it he joined as cashier-cum-clerk at bank's Chandauli Branch on 9-1-84. He was kept on probation for a period of six months which period was extended for another three months period vide head office letter dated 28-6-84. On 15-9-84, the workman was reverted as Armed Guard.

4. The case of the Union is that the clause regarding keeping him on probation for a period of six month was against clause 4.7 of the Promotion Policy Agreement of 1975 as amended on 16-9-80 under which promotion from subordinate staff to clerical cadre is made purely on permanent basis without attaching the condition of probation. In the alternative the Union alleges that since the letter dated 28-6-84, extending the period of probation of the workman was received by the workman on 10-7-84, i.e. after the expiry of period of six months, the workman would be deemed to have been confirmed in the clerical cadre. Thus the action of the management was wholly unjustified and illegal. The Union has, therefore, prayed that the management be directed to treat the workman as confirmed cashier-cum-clerk with retrospective effect i.e. from the date of his promotion and further be directed to pay to him arrears of wages.

5. The case is contested by the management. According to the management the order for extending the period of probation may be passed even after the expiry of the period of probation. The employee acquires the status of a confirmed employee on the post only as a result of an affirmative order passed in this regard by the competent authority. It was clearly mentioned in para 4 of the promotion order dated 13-12-83 that the workman would be on probation for a period of 6 months from the date of joining. During the period of probation the work and performance of the workman is reported in the appraisal report was not found satisfactory. He was put on notice on 30-3-84, to show marked improvement in his work and performance. Since the workman failed to show the desired improvement in the work, the management did not found him fit for continuing him in the post of clerk-cum-cashier and reverted him to his original post of Armed Guard in subordinate cadre. In the circumstances, the workman/Union is entitled to no relief.

6. In this case, both sides have led oral as well as documentary evidence. Whereas the Union has examined the workman, the management have examined Sri C. B. Singh, Branch Manager of Rathyatra Crossing Branch, Varanasi.

7. Sri B. P. Saxena, the authorised representative, for the union has challenged the order of the management mainly on three grounds—

1. That in the order of promotion dated 13-12-83, the condition of probation could not be put ;
2. That upon the expiry of period of probation the workman automatically stood confirmed in the clerical cadre ; and
3. That the period of probation could not have been extended.

8. All the three points can be considered together Ext. M-4, is the copy of extract from the promotion policy agreement. Clause 4.7 refers to promotion from subordinate to clerical cadre. I have gone through it and find that it simply lays down the eligibility criteria i.e. to say who from the subordinate cadre would be considered for promotion to clerical cadre. It no where lays down that while ordering promotion a clause as to probation cannot be inserted in the order of promotion. So in the first plea of the Union I find no force.

Sri Saxena has also relied upon para 495 of the Sastry Award. I have gone through it and find that it is also of no help to him. The relevant portion of para 495 of the Sastry Award reads as under—

The Sen Award fixed the period of probation at six months which in certain cases would be extended by three months. We respectfully agree with the said direction and direct that ordinarily the period is not found to be quite satisfactory during the said period but who are likely to improve and give satisfaction if a further opportunity is given to them, the period may be extended by three months provided due notice writing is obtained before the extension of their in writing is obtained before the extension of their period of probation. In all other cases probationers after the expiry of the period of six months should be deemed to have been confirmed, unless their services dispensed with on or before the expiry of the period of probation.

It means that the new recruits would be kept for probation for a period of six months which period in certain circumstances can be extended by another three months. This gives strength to the action of the management in putting the workman on probation for a period of six months on his promotion to clerical cadre.

10. Ext. M-2 is the copy of Head Office letter dated 30-3-84. By means of this letter the workman was informed that from the various reports received about him regarding his work performance and he was found to have committed serious errors even under normal condition of work. He was slow and careless and had a tendency to overwrite and cancell. His work and performance was poor. He was therefore, informed that he was being put on notice and is being advised in his own interest to make earnest efforts and show marked improvement in his work and performance before his case was considered for confirmation.

11. The receipt of this letter is not denied by the workman in his cross examination. This his case was one of unsatisfactory work as referred to in para 495 of the Sastry Award.

12. Sri Saxena seeks shelter behind the fact that since the letter dated 28-6-84, copy Ext. M-1 extending the period of probation of the workman by another three months was received by the workman on 10-7-84, with the expiry of the period of probation of six months on 8-7-84, he would be deemed to have stood automatically confirmed in the clerical cadre. The receipt of letter dated 28-6-84, copy Ext. M-1 has also been admitted by the workman in his cross examination. At this late stage it cannot be confirmed with any amount of certainty as to when this letter was actually received by the workman. Simply on the oral testimony of the workman we cannot rely. In his cross examination the workman has deposed that he had been on leave from 8-6-84 to 30-6-84. It is not difficult for one to have avoided the receipt of such a letter by proceeding on leave or by proceeding to a place unknown to the management in order that service of such a letter could not have been effected in time. The letter in this case was issued on 28-6-84 and it could have reached the hands of the workman much before 8-7-84. Even otherwise I find no force in this plea. His was a case of a person whose work was not found satisfactory and who was given an opportunity to show marked improvement in his work and performance by means of letter dated 30-3-84. Copy Ext. M-2. Therefore, in his case it would have been immaterial if the order extending the period of probation had been issued and served upon him before the expiry of period of probation of six months or seen after that. His case is fully covered by the exception given in para 495 of the Sastry Award. We have seen above that the order extending the period of probation was issued much before the expiry of the period of his probation. Hence, I find no force in this plea of Sri Saxena.

13. As regards the third point it is clear from para 495 of Sastry Award that in a case like the present one the period of probation would be extended. Hence, I find no force in any pleas raised by the Union in support of the case of the workman. Ext. M-3 is the copy of H.O. Letter dated 15-9-84, by means of which the workman was reverted to the original post of subordinate cadre on account of his unsatisfactory work and performance in the clerical cadre during the period of probation.

14. Hence it is held that the action of the management in reverting the workman from the clerical cadre to his original

post in the subordinate cadre is legal and justified. Consequently the workman/Union is entitled to no relief.

15. Reference is answered accordingly.

ARIJAN DEV, Presiding Officer

नई दिल्ली, 16 मार्च, 1992

का. प्रा. 1025—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक अफ इण्डिया के प्रबंधन के संबंध में उनके कर्मचारियों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, वासपुर के पक्षों की प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/394/89-डी.एन. (ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 16th March. 1992

S.O. 1025.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 13-3-1992.

[No. L-12012/394/89-D.II (A)]

V. K. VENUGOPALAN, Desk Officer

#### ANNEXURE

BEFORE SRI ARIJAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 83 of 1990

In the matter of dispute :

BETWEEN

Sri Sanjay Chaurasia, House No. 144 Kola Wali Gali,  
Mathura,

AND

The Branch Manager, Central Bank of India, Ghata  
Bazar Branch, Mathura.

#### AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/394/89-D.II (A) dated 9-3-90 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India was justified in terminating the services of Sri Sanjay Chaurasia? If not, to what relief is the workman entitled?

2. On 28-2-92, the authorised representative for the workman Sri H. S. Goel moved an application before the Tribunal submitting that the workman got the employment under the management and as such he does not want to press the present claim.

3. In view of the above submission of Sri Goel, a no claim award is given in the case as there remains no dispute between the parties.

4. Reference is answered accordingly.

ARIJAN DEV, Presiding Officer



नई दिल्ली, 18 मार्च, 1992

का. अ. 1026.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कुद्रेमुख आयरन ओर कम्पनी लिमिटेड के प्रबन्धन के संबंध नियोजकों और उन के कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-3-92 को प्राप्त हुआ था।

[संख्या एन-26012/1/90-आई.आर. (विधि)]

बी०एम० डेविड, डेस्क अधिकारी

New Delhi, the 18th March, 1992

S.O. 1026.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure to the industrial dispute between the employers in relation to the management of Kudremukh Iron Ore Company Ltd. and their workmen, which was received by the Central Government on 18-3-1992.

[No. L-26012/1/90-IR (Misc.)]

B. M. DAVID, Desk Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this the 12th March, 1992

## PRESENT :

Sri M. B. Vishwanath, B.Sc., LLB. Presiding Officer.  
Central Reference No. 25 of 1990

## I PARTY :

Sri H. C. Nagaraja, C/o H. C. Gopalachar, Goldsmith,  
Old Ganiga Street, Hassan-573201.

Vs.

## II PARTY :

The Manager (Personnel), Kudremukh Iron Ore Company Limited, P.O. Kudremukh-577142 Chickmagalur District.

In this reference No. L-26012/1/90-IR (Misc.) dated 22-3-1990 made by the Hon'ble Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the point for adjudication as per Schedule to reference is :—

"Whether the management of KIOCL is justified in discharging Sri H. C. Nagaraja Operator-cum-Mechanic Grade II from service w.e.f. 4-2-1986. If not, what relief the workman is entitled to?"

## AWARD

This Tribunal by a separate considered order has held that the Departmental Enquiry held against the I Party is fair and proper.

2. Then the case was posted to hear regarding adequacy of punishment and victimisation. The I Party has not stepped into the box. I have gone through the evidence of MW-1, the Enquiry Officer. There is absolutely nothing to establish victimisation.

3. Now regarding adequacy of punishment.

4. Exhibit M-2 is the chargesheet. It is clear from the evidence of MW-1 and the material on record that the I Party has not reported for duty on 29-11-1985, though he was

directed to do so, after the expiry of 4 days leave from 25-11-1985. The I Party sought extension of leave by 30 days on medical grounds, without sending the Medical Certificate. Hence the II Party was justified in refusing to sanction leave. The I Party was directed to report for duty on 7-11-1985. Even then, the I Party did not report for duty. The II Party again directed the I Party to report for duty within 24-12-85, failing which Departmental Enquiry would be held as per standing orders. This was sent through Registered Post. Under these circumstances, the absence of the I Party was rightly treated as unauthorised. I am of the opinion that the II Party was right in discharging the I Party from service. The punishment given to the I Party after holding Departmental Enquiry was proper. Hence the award is rejected.

[Dictated to the Secretary (I/c), taken down by him got typed and corrected by me].

M. B. VISHWANATH, Presiding Officer

नई दिल्ली, 20 मार्च, 1992

का. अ. 1027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायमण्ड माईनिंग प्रोजेक्ट आफ एन. एम. डी सी., पन्ना के वनक्षेत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18 मार्च, 1992 को प्राप्त हुआ था।

[संख्या एन-43012/27/85-डी-III (बी)]

[एन-43012/30/85-डी-III (बी)]

[एन-43012/31/85-डी-III (बी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 20th March, 1992

S.O. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Diamond Mining Project of NMDC, Panna and their workmen, which was received by the Central Government on 18-3-1992.

[No. L-43012/27/85-D.III (B)]

[No. L-43012/30/85-D.III (B)]

[No. L-43012/31/85-D.III (B)]

B. M. DAVID, Desk Officer

## ANNEXURE

## BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

(1) Case No. CGIT/LC(R)(119)/1989

[Referred vide Notification No. L-43012/27/85-D.II (B)  
Dated 22-7-1987] dispute raised by Shri B. K. Sarkar

(2) Case No. CGIT/LC(R)(151)/1987

[Referred vide Notification No. L-43012/30/85-D.III (B)  
Dated 18th August, 1987—dispute raised by Shri K. C. Sahra]

(3) Case No. CGIT/LC(R)(177)/1987

[Referred vide Notification No. L-43012/27/85-D.III (B)  
Dated 28-2-1987—dispute raised by Shri Birdaban]

On all the above three references the opposite party/employer is the; Project Manager, Diamond Mining Project, Panna (M.P.) and represented the workmen by M.P.R.K.M. Sangh Panna (M.P.)

## APPEARANCES :

For Workmen—Shri R. K. Gupta, Advocate.



For Management—Shri R. Menon, Advocate.

INDUSTRY : Diamond Mining DISTRICT : Panna (M.P.)

### AWARD

Dated, the 28th February, 1992

This award disposes of Case No. 119/87, 151/87 and 177/87. These cases relate to different workers against the same management and are connected with the correction of date of joining. The matter of dispute for adjudication under the above three Reference is as under :—

Case No. CGIT/LC(R)(119)/87.

“Whether the action of the management of Diamond Mining Project of NMDC, Panna is not acceding to the demand of the M.P. Rashtriya Hira Khani Mazdoor Sangh, Panna to enter the correct date of joining the services i.e. 11-5-67 in the seniority list prepared by the management in respect of Shri B. K. Sarkar is justified? If not, to what relief the workman concerned is entitled?”

Case No. CGIT/LC(R)(151)/1987.

“Whether the action of the management of Diamond Mining Project of NMDC, Panna in not acceding dated 1-9-82, with one of the Unions to account date of joining of Shri K. C. Saha, M.C.O.-II others without his consent and consequently presuming his date of joining as 14-6-67 instead of 1964 affecting his seniority is justified? If not, to what relief is the workman concerned entitled?”

Case No. CGIT/LC(R)(177)/1987.

“Whether the action of the management of Diamond Mining Project, Panna in arriving at a settlement dated 1-9-82, was one of the unions to account date of joining of Shri Bindaban, Maintenance Asstt. I amongst others without his consent and consequently presuming his date of joining as 14-6-67 instead of 1964 affecting his seniority is justified? If not, to what relief is the workman concerned entitled?”

2. The common leading facts to all these cases are that the workmen are the employees of Diamond Mining Project of N.M.D.C., Panna. It is also not disputed that earlier there had been a settlement on 1-9-1982 between the management of Diamond Mining Project, Panna and one of the Union viz. P.H.K.M.S. Panna, which was signed on the same day, in the said Settlement certain date of joining of the workman, was corrected. In pursuance of the said Settlement, the date of joining of about 795 workmen was submitted before the A.L.C. (C) and the Settlement was arrived at as above.

3. The workmen say that the Union accepted the date of joining of the concerned workmen on the basis of presumption and also without verifying the correct date of joining in the establishment. On the basis of this wrong information the Union accepted the date of joining of Shri B. K. Sarkar (Case No. 119/87) in the establishment as 7-2-1969 which should have been 11-5-67 in the seniority list prepared by the management. In the same way, the date of joining of the workman, Shri K. C. Saha, MCO-II (Case No. 151/87) has been recorded as 14-6-67 instead of 1964. The workman in the order of Reference claimed 1964 to be the correct date of joining but in the Statement of claim he has submitted his correct date of joining to be 18-2-1960.

4. The workman, Shri Bindaban, Maintenance Asstt. I has claimed his date of joining to be 13-5-61 instead of 16-2-69 (Case No. 177/87).

5. These workmen say that on account of these mistakes their seniority has been affected. The management should have accepted the dispute raised by the Union because the earlier Union had not taken the consent of these workmen nor were they members of the said Union. Hence their date of joining should be corrected accordingly and seniority be given to them.

6. The Management says that the Settlement was arrived at with the recognised Union. There was neither any misconduct nor any misgiving by the Union, the date of joining was duly verified by the management as also by the Union. They cannot go behind the said Settlement. The Settlement is binding on the workmen concerned. They are not entitled to the seniority as claimed by them and the references are liable to be rejected.

7. Now I will deal with the evidence raised in each references.

Reference No. 119/87.—Workman has proved three documents, Ex. W/1 to Ex. W/3. The management has proved documents Ex. M/1 to Ex. M/3 and Ex. M/5. The workman has examined himself in the case while the management has examined Shri Z. A. Ansari in support of the case of the management. Ex. W/1 is certificate, according to which the workman had joined on 11-5-67. This fact finds corroboration from no objection certificate (Ex. W/2) of the management. These documents have been proved by the workman. Ex. M/2 is the copy of the Service Book, according to which the date of joining of the workman has shown to be 7-2-1969. Other documents are not relevant.

8. MW-1, Z. A. Ansari, in his cross-examination had to admit that as soon as the workman joined the establishment, Form 'B' Register is maintained. This Form 'B' Register is not on record. He further states that the list attached to the Settlement is on the basis of Form 'B' Register. He had to further admit in para 22 of his cross-examination that there are various entries in which date and month of joining has not been given in the list. He had to cut sorry figure in saying it is so because entries must have been in the Form 'B' Register. He had to further admit that the joining of R. N. Vishwakarma has not been given in the list. He, however, admits the Settlement (Ex. W/3), but he could not deny that there are certain mistakes and omissions in the Settlement. This opened the gate of correcting the mistakes of the Settlement. That being so, it can be certainly said that the date of joining of the workman, Shri B. K. Sarkar, should have been 11-5-67 and I must accept the testimony of Shri B. K. Sarkar. The testimony of Shri Z. A. Ansari is on the basis of record and cannot be accepted as pointed out above.

9. Reference No. 151/87.—Now coming to the case of Shri K. C. Saha, M.C.O. II, the order of Reference does not speak the date of joining. There is a variation between the correction sought to be claimed as per order of Reference and in the pleadings. As per pleadings this workman states that he joined the establishment from 18-2-1960 while the order of Reference shows that the workman raised the dispute stating that his date of joining should be taken as 1964. It is true that the documents Ex. W/1 to Ex. W/5 support the contention of the workman, but in view of the inconsistencies in pleadings and proofs I am not inclined to accept the testimony of WW-1 K. P. Shah but have to rely upon the evidence adduced by the management viz. the Settlement Ex. M/1 and Service Book Ex. M/2 (Ex. M/3 is the copy of the dispute raised before the R.L.C. (C)). Ex. M/4 is Form B Register in which date of appointment has been given to be 14-6-1967. Thus in this case not only on account of inconsistencies of the case of the workman but from the evidence as adduced by the management and the Settlement arrived at I am not inclined to interfere in the Settlement arrived between the parties.

10. Reference No. 177/1987.—So far the case of Shri Bindaban, maintenance Asstt. I is concerned, he has proved Identity Card Ex. W/1 according to which his date of joining has been shown to be 13-5-1961. The workman has supported the contention by examining himself. Management while examining Z. A. Ansari, MW-1, has proved documents Ex. M/1 to Ex. M/4. The question only remains is how much importance should be given to the Identity Card (Ex. W/1) over and above the Service Book and the Settlement arrived at between the parties. In this case Form B Register was not available as admitted by MW-1 Z. A. Ansari in para 21 of his deposition. Why Form B Register has not been produced puts a question mark. Management cannot by-pass Ex. W/1 by saying that Form B Register is not available. Now the question is whether the Settlement can also be by-passed?

11. While considering this aspect of the case, the following discussion is noteworthy.

12. In the case of Metal & Engineering Workers Union (AITUC), Bhilai and Himmat Steel Foundry Ltd. Durg and others (1984 MPLJ 134) the Settlement which provided payment of wages less than the minimum wages was held to be violative of Art. 28 of the Constitution and therefore it was set aside irrespective of the fact that the settlement was registered and the registration certificate was quashed. It cannot therefore be said that the Settlements are unpenetrable.

13. The case of Jhagrakhand Collieries (P) Ltd. Vs. G. C. Agarwal, Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court, Jabalpur and others AIR 1975 SC p. 171 relates to Central Wage Board Award which was sought to be implemented by the Union and for this purpose an application under Sec. 33-C(2) of the I.D. Act for determination of the amount of variable dearness allowance was made by the Union. The jurisdiction of the court was challenged. Thereafter the Panchayat served a notice of strike under Section 22(1) of the Act on the Company together with a charter of 29 demands and threatened to strike on or after November 7, 1969 if their demands were not conceded. Thereupon the conciliation proceedings purporting to under S. 22 read with Section 12(1) of the Act were held by Shri B. D. Sharma, Assistant Labour Commissioner (C) Shahdol on the 21st and 22nd October, 1969. In the course of these conciliation proceedings on October 22, 1969, besides other matters, the dispute relating to V.D.A. was settled. Report together with a copy of the Settlement was sent to the Government as required by Section 12(3) of the Act. Subsequent to the signing of the conciliation agreement, the Company filed a supplementary statement submitting that in view of the said settlement the application under Sec. 33-C(2) of the Act filed by the Federation had become infructuous. The Union took stand that the settlement was not in accordance with the provisions of the Act inasmuch as it had not been brought about in proceedings before a duly appointed conciliation Officer. The Labour Court held that Shri Sharma was not a duly appointed Conciliation Officer on the date on which the settlement was arrived at, and consequently, it did not put an end to the dispute pending before a Labour Court. A writ was filed by the Company before the High Court which was dismissed. In these circumstances of the case, the Supreme Court had made certain observations which are as follows. Relevant part of para 16 runs thus :—

"It follows, therefore, that even if 99 per cent. of the workers have impliedly accepted the agreement arrived at on October 22, 1969, by drawing V.D.A., under it, it will not—whatever its effect under the general law put an end to the dispute before the Labour Court and make it functus officio under the Act."

Para 12 of the judgment runs as follows :—

"The effect of a settlement of the first kind is indicated in Sub-sec. (3) and that of the second in Sub-sec. (1) of S. 18 of the Act. The material part of Section 18 reads thus :—

18(1) A Settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement.

(2) Subject to the provisions of Sub-section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(3) A Settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under sub-section (3-A) of S. (10-A) or an award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on :—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the board (arbitrator) (Labour Court, Tribunal or National Tribunal), as the case may be, records the opinion that they were summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment, or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Para 21 of the judgment runs as follows :—

21. In (1965) 2 Lab. LJ 110 (SC) (supra) cited by Mr. Malhotra, pending the appeals by the management before this Court, the subject matters of the award were settled between most of the managements and most of their employees represented by certain Unions. An application was made requesting the Court to dispose of the appeals in terms of such settlement. It was opposed on behalf of some of the employees. This court called for a finding from the Industrial Tribunal on this issue :

"In view of the fact that admittedly a large number of workmen employed by the appellants have accepted payments consistently with the terms of the agreements set up by the employers in their present petition, is it shown by the respondents that the said agreement is not valid and binding on them ?"

The tribunal submitted the finding that in every estate payments were made in terms of the settlement and such payments were voluntary and knowingly accepted by the workmen. It also held that the terms of the settlement were fair. This court accepted the finding of the Tribunal holding that "the settlement appears to us also to be a fair one". It therefore decided the appeals in terms of the settlement."

14. The case of General Manager, Security Paper Mill, Hoshangabad vs. R. S. Sharma and others (AIR 1986 SC p. 954) relates to an agreement which was not entered into during the course of any conciliation proceedings and no conciliation proceedings were pending at the time when the agreement was entered into. The Respondents who were not the operative staff and were not members of the Union and parties to the agreement challenged to the validity of the agreement before the Authority under the Payment of Wages Act on the basis of the settlement of the year 1973. It was also contended that the said Union had no authority to enter into agreement binding the respondents who were not its members. In these circumstances following observations were made by the Supreme Court in para 5 of the judgment :—

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. Any settlement arrived at should be a just and fair one. Law thus attaches importance and sanctity to a settlement arrived at in the course of a conciliation proceedings since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

The Supreme court, however, observed that "because there

were three Unions and there was no evidence to show that the respondents were the members of the S.P.M. Employees union which had entered into the agreement dated April 11, 1979. Since it is not shown that S.P.M. Employees union which entered into the agreement could represent the respondents herein and that the respondents were parties to it, the agreement was not binding on them." Much emphasis have been laid on the fairness of the Settlement.

15. After long discussions O. P. Malhotra on "The Law of Industrial Disputes, Fourth Edition, Volume 2 at pages 1240-1241 has summed up as follows :—

"The original S. 18 has been renumbered as the present s.18(3) by the Industrial disputes (Amendment and Miscellaneous Provisions) Act, 1956. This provision with respect to the binding effect, places the "settlements arrived at in the course of conciliation proceedings" at par with the awards made by the adjudicatory authorities." "Law gives greater sanctity to settlements than it gives to awards. Therefore industrial law does not contemplate any interference with the finality of a settlement and compels a settlement to run on for the period mentioned in the settlement itself and neither party is permitted to challenge that settlement during the period of its operation. A settlement arrived at even by an unregistered union is binding on the parties to such a settlement. The principle behind this is that a minority shall not be allowed to jeopardise the right of a majority, and in the interest of uniformity and industrial peace such a settlement should bind all the parties. In Herbertsons Ltd. Vs. Workmen of Herbertsons Ltd., on the facts and in the circumstances of the case, the Supreme Court held that even if a few workers are not members of the majority union, it would be just and fair that the settlement should not be disturbed particularly when a recognised and registered union enters into a voluntary settlement."

16. As I have already pointed the inconsistencies and the omissions in the list annexed to the Settlement while dealing with Ref. 119/87 and 171/87 I have to express that a Settlement arrived at by the gross misconduct of both the parties would not be a valid Settlement in the eye of law so far as these two workmen are concerned. I have confined myself to the references under consideration only while making the aforesaid observations because this would not only amount to miscarriage of justice but any agreement arrived at by mistake or gross misconduct which may in turn amount to fraudulent practice such as by concealing the important documents would call for interference and this Tribunal is inclined to interfere in the above Settlement so far as the cases of Shri B. K. Sarkar and Shri Bindaban are concerned. I accordingly give my findings as follows :—

Ref. No. 119/87 :

The action of the management of Diamond Mining Project of NMDC, Panna in not acceding to the demand of the M. P. Rashtriya Hira Khani Mazdoor Sangh, Panna to enter the correct date of joining of services i.e. 11-5-67 in the seniority list prepared by the management in respect of Shri B. K. Sarkar is not justified. His date of joining of services on 11-5-67 in the seniority list prepared by the management be accordingly corrected and all benefits be given to him.

Ref. No. 177/87 :

The action of the management of Diamond Mining Project, Panna in arriving at a Settlement dated 1-9-82, with one of the Unions to account date of joining of Sh. Bindaban, Maintenance Asstt. 1-I amongst others without his consent and consequently pressing his date of joining as 16-2-69

instead of 3-5-61 affecting his seniority is not justified. His date of joining be corrected as 13-5-61 in his service record and all benefits arising out of that be given to him.

Ref. No. 151/87 :

The action of the management of Diamond Mining Project, Panna in respect of Shri K. C. Saha, M.C.O.-II is justified as observed in para 9 of the award above. He is not entitled to any relief.

Parties to bear their own costs in all the above cases.

V. N. SHUKLA, Presiding Officer

28-2-92

नई दिल्ली, 20 मार्च, 1992

का.सं. 1028--औद्योगिक विवाद आर्बिट्रियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में एम. बी. एण्ड कं. लि., स्टीमर एजेंट्स, कोचीन पोर्ट ट्रस्ट के प्रबन्धन के संबंध निषेधकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में लेबरकोर्ट, एरनाकुलम के मंचपाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-3-92 को प्राप्त हुआ था।

[संख्या एन-35012/4/88-डी-III(बी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 20th March, 1992

S.O. 1028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. M. B. & Co. Ltd., Steamer Agents, Cochin Port trust and their workmen, which was received by the Central Government on the 20-3-92.

[No. L-35012/4/88-D.III (B)]

B. M. DAVID, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT,  
ERNAKULAM (LABOUR COURT, ERNAKULAM)

Monday, the 9th day of March, 1992

PRESENT :

Shri R. Raveendran, B.A., B.L.,  
Presiding Officer

Industrial Dispute No. 5 of 1989 (C)

BETWEEN

The General Manager (Shipping), M/s. M.B. & Co. Ltd., Shipping Department, Wellington Island, Cochin-682003.

AND

The Secretary, Cochin Port & Dock Employees Union, Wellington Island, Cochin-682003.

Representations :

M/s. Menon & Pai, Advocates, Cochin-682011.

—For Management.

Shri K. Janardhanan, Advocate, Perandoor Road, Cochin-17.

—For Union.

#### AWARD

"Whether the action of the management of M/s. M.B. & Co. Ltd., Steamer Agents, Cochin Port, Cochin in terminating the services of Shri K. C. Antony, Supervisor w.e.f. 26-3-87 is justified. If not, what relief the workman is

entitled to ?" is the issue referred for adjudication to this Court as per the order No. L-350124 88-D.III(B) dated 30-1-1989.

2. The Union has filed claim statement stating as follows :—

Mr. K. C. Antony has been denied the employment as supervisor, without any reason or notice, or prior information from 26-3-1987. The vessel at that time arrived at Cochin Port was Indian Prestige. When contacted to authority in the office by getting notice of arrival of ship, it was stated that, one Supervisor, was already posted for the work in the ship. Subsequent work, also denied to him, inspite of the complaint made timely. It is wrong to engage others to carryout, the duties which were being done by Mr. K. C. Antony. There is no charges or notice to the workman prior to the denial of employment by the Management. Union had taken the issue with management and also with conciliation authorities, but, failed to settle the same, due to the adamant attitude of the management of the company. The action of the management is illegal and violative of principles of natural justices. The workman was regular supervisor of the company, in vessels that arrive at Cochin Port Trust. Being supervisor on board the workman had completed the entrusted work, according to the instructions of the company from time to time, without fail. He may be reinstated in service with full backwages.

3. The Management has filed counter statement contending as follows :—

Sri K. C. Antony was an employee of Cochin Dock Labour Board and he retired from service on 30-6-84. After his retirement, he was engaged by the Management purely as a Casual Supervisor on trial basis. He attended to the following four vessels on the dates noted against each :—

1. M. V. Indian Prestige 30-8-84/3-9-84 . . 4 days
2. M. V. Indian Endurance 6-11-84/4-11-84 . . 8 days
3. M. V. Indian Endurance 27-4-85/4-5-85 . . 7 days
4. M. V. Indian Explorer 24-1-86/28-1-86 . . 4 days.

From the above it can be seen that the total number of days Sri K. C. Antony had been engaged by the Management were 23 days, for the period 1984-86. During the days he was thus engaged, his performance was not at all satisfactory. Eventhough he had been given chance of work for four ships, there was no improvement and it was not possible to continue to utilise his casual service. As a casual Supervisor, he has also no rights to claim continuous employment. He was employed purely on casual basis for specific periods and for specific purpose. In view of the nature of work performed by Sri Antony, he is not a workman within the meaning of the Industrial Disputes Act and the reference order is bad in law. The Management has not terminated the services of Sri K. C. Antony with effect from 26-3-87. There was no termination of service of Sri K. C. Antony. He had been engaged purely as a casual Supervisor. His casual services ipso facto came to an end. It is not correct to say that Sri Antony has been denied employment as Supervisor without any reason or notice. He had not been engaged during the year 1987. He was last engaged for the management on 28-1-86 and thereafter he has not been engaged. The shipping agency business being a service-oriented business, prime importance is attached to the services extended by Agencies to the Shipping Companies. Therefore, the management cannot afford to compromise on the quality of the service to the principles. The performance of Sri Antony as a casual Supervisor was not at all satisfactory. As a casual supervisor he cannot claim employment continuously as a matter of right. He is not entitled to any relief in this reference.

4. The point that arise for consideration are whether the termination of service of Sri K. C. Antony, Supervisor with effect from 26-3-87 is justified, if not, what relief the workman is entitled to ?

5. For the Management MW1 was examined and Exts M1 to M4 were marked. For the workman WW1 was examined.

6. Point.—According to the workman while he was working as supervisor in the management establishment, his employment was denied without assigning any reason with effect from 26-3-87. Therefore he is entitled to get reinstatement in service with full backwages as the denial of his employment is illegal. But the Opposite Party would contend that he was an employee of Cochin Dock Labour Board and he retired from service on 30-6-84. After his retirement, he was engaged by the Management purely as a casual supervisor and he was engaged by the Management only for 23 days, for the period 1984-86. During the days he was thus engaged, his performance was not at all satisfactory. Even though he had been given chances of work for four ships, there was no improvement and it was not possible to continue to utilise his casual service. As a casual supervisor, he has also no rights to claim continuous employment. He was employed for specific periods and specific purpose. On the expiry of the said period, his casual services ipso facto came to an end. There is no termination of service of K. C. Antony.

7. The workman was examined as WW1. He would depose that he was working as Supervisor in the management establishment from August 1984 and his employment was denied in March 1987. In the cross examination he would depose that he has received wages for 23 days for these period. The administrative officer in the management company was examined as MW1 who would depose that K. C. Antony was engaged as casual supervisor on trial basis after retirement in Cochin Dock Labour Board at the age of 60 and he was engaged for 23 days during the entire period. Thereafter he was not engaged as his performance was not satisfactory. Eventhough he was asked to improve his performance, he could not improve his performance. In view of the fact that there is no satisfactory evidence to prove that the workman has got uninterrupted and continuous service of 240 days in a year and he was engaged only for 23 days only during the relevant period, he has not acquired the right of employment in the management company and he was engaged as a Casual Supervisor. As it is found that his performance is not satisfactory, he was not engaged by the management and the disengagement of K. C. Antony in service cannot be termed as termination of service or denial of employment. In these circumstances, I find that there is no termination of employment or denial of employment to K. C. Antony and he was only a casual supervisor who worked for only 23 days. In these circumstances, I find that K. C. Antony is not entitled to get any relief in this reference.

8. In the result, an award is passed holding that there is no termination of service of K. C. Antony, Supervisor with effect from 26-3-1987.

Ennakulam,

9-7-1992

R RAVEENDRAN Presiding Officer  
Appendix

Witness examined on the side of Management :

MW1—Sri P. K. Meron.

Witness examined on the side of workman :—

WW1—Shri K. C. Antony

Exhibits marked on the side of Management :

Ext M1—Bill dated 10-9-84 Rs 452.85 submitted by the workman.

Ext M2—Bill dated 16-11-84 for Rs. 1776.80 submitted by the Workman.

Ext M3—Bill dated 6-5-85 for 777.60 submitted by the Workman.

Ext M4—Bill dated 29-1-86 for Rs. 484.17 submitted by the Workman.